

Regular Session, 2011

SENATE BILL NO. 258

BY SENATOR WILLARD-LEWIS

TAX/TAXATION. Provides for the levy of state use tax on the purchase of property and services which are used to be manufactured into items for use in "orbital environments" 500 miles above earth's surface if the sale does not occur in the state and dedicates all state tax collected to make grants to such manufacturers. (10/1/11)

## AN ACT

To enact R.S. 47:305.66, relative to sales and use taxes; to provide with respect to the levy of state sales and use taxes upon transactions related to items manufactured within the state for use in orbital environments; to provide for a dedication of taxes collected on the sale or use of such property; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:305.66 is hereby enacted to read as follows:

**§305.66. Taxation and dedication of proceeds: items manufactured for use in orbital environments**

**A.(1) Notwithstanding the provisions of R.S. 47:301(10)(c)(i)(aa) or any other law to the contrary, if for any reason the sale of an item manufactured for use in orbital environments is not subject to the sales tax of the state, then the sale or purchase of property, services, leases, or rentals which are used to be further processed or manufactured into such items shall be considered a taxable use of such items and shall be subject to the state use tax; provided that there shall be no duplication of the tax.**

**(2) For purposes of this Section, "items manufactured for use in orbital**

1 environments" shall mean an item that is intended to be placed into service  
2 more than five hundred miles above the earth's surface.

3 B.(1) Funds received by the Department of Revenue from state sales and  
4 use taxes collected upon transactions related to items for use in orbital  
5 environments as provided for in Subsection A of this Section shall be deposited  
6 upon receipt in the state treasury. After compliance with the requirements of  
7 Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond  
8 Security and Redemption Fund and prior to any money being placed into the  
9 general fund or any other fund, such funds shall be credited by the treasurer to  
10 a special fund hereby created in the state treasury to be known as the Orbital  
11 Manufacturing Development Fund.

12 (2)The money in the fund shall be invested by the treasurer in the same  
13 manner as money in the state general fund and interest earned on the  
14 investment of the money shall be credited to the fund after compliance with the  
15 requirements of Article VII, Section 9(B) relative to the Bond Security and  
16 Redemption Fund. All unexpended and unencumbered money in the fund at the  
17 end of the year shall remain in the fund.

18 (3)(a) The money in the Orbital Manufacturing Development Fund shall  
19 be administered by the Louisiana Economic Development Corporation  
20 pursuant to R.S. 51:2311 and the funds shall be deemed the property of the  
21 Louisiana Economic Development Corporation. The Louisiana Economic  
22 Development Corporation shall use money in the fund solely to make grants to  
23 manufacturers of items for use in orbital environments.

24 (b) Manufacturers of items for use in orbital environments who receive  
25 money from the Louisiana Economic Development Corporation pursuant to a  
26 cooperative endeavor agreement are hereby precluded from challenging a tax  
27 assessment by the Department of Revenue based upon the location of delivery  
28 of an item for use in orbital environments.

29 \* \* \*

1           Section 2. This Act shall become effective on October 1, 2011; if vetoed by the  
2           governor and subsequently approved by the legislature, this Act shall become effective on  
3           October 1, 2011, or on the day following such approval by the legislature, whichever is later.

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The original instrument was prepared by Jerry J. Guillot. The following digest, which does not constitute a part of the legislative instrument, was prepared by Riley Boudreaux.

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#### DIGEST

Willard-Lewis (SB 258)

Proposed law subjects to state "use tax" the sale or purchase of property, services, leases, or rentals which are used to be further processed or manufactured into items manufactured for use in orbital environments if for any reason the sale of such an item is not subject to the state "sales tax".

"Item manufactured for use in orbital environments" is defined as an item that is intended to be placed into service more than 500 miles above the earth's surface.

The proceeds of the tax on such items is required to be credited by the Treasurer to the Orbital Manufacturing Development Fund. The money in the fund must be administered by the Louisiana Economic Development Corporation and the funds are deemed the property of the corporation. The corporation must use money in the fund solely to make grants to manufacturers of items for use in orbital environments.

Manufacturers who receive money from the corporation pursuant to a cooperative endeavor agreement are precluded from challenging a tax assessment by the Department of Revenue based upon the location of delivery of an item for use in orbital environments.

The money in the fund must be invested by the Treasurer in the same manner as money in the state general fund and interest earned is credited to the fund. All unexpended and unencumbered money in the fund at the end of the year remains in the fund.

Effective October 1, 2011.

(Adds R. S. 47:305.66)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill.

1. Deletes the exemption from local sales tax for such items.
2. Completely changes the bill from a state and local sales tax exemption to the special type of levy of state sales and use tax and the dedication of the tax proceeds as set forth above.
3. Changes the effective date from July 1<sup>st</sup> to October 1, 2011.